IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.11.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

W.P.No.17870 of 2001

M.Balasubramanian .. Petitioner

-vs-

Chennai Metropolitan Development Authority,
rep. by its Member Secretary,
Egmore, Chennai - 8. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for a writ of certiorari to call for the records relating to the demolition notice Letter No.ES1/SD/3/2000 dated 26.4.2001 (signed on 16.8.2001 and served on 17.09.2001) by the respondent quash the same.

For Petitioner : Mr.P.R.Raman
For Respondent : Mr.J.Ravindran

O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

Aggrieved by the demolition notice dated 26.04.2001(signed on 16.8.2001 and served on 17.09.2001), the petitioner has filed the above writ petition to quash the same on various grounds.

2. Heard the learned counsel for the petitioner as well as the respondent.

3. Learned counsel for the respondent fairly states that without permission or approved plan, the petitioner has constructed the building in question in 1985. According to the learned counsel, even after the receipt of impugned notice dated 26.04.2001, in view of Section 56(3) of the Tamil Nadu Town and Country Planning Act, 1971, the petitioner may apply for permission under Section 49 for the retention of the land, or building or work or for the continuance of the same, to which the notice relates to. It is also brought to our

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notice that on receipt of this notice dated 26.04.2001 (served on 17.09.2001), the petitioner has filed the above writ petition and the same was admitted by this Court on 27.09.2001. It is also brought to our notice that in W.P.M.P.No.26371 of 2001, this Court granted interim stay and on 27.08.2003, the same was made absolute. In other words, the interim order granted on 27.09.2001 is in force all along till today.

4. In view of the admitted factual position that the petitioner had constructed the building without any plan and taking note of the length of time, namely 21 years and also the fact that this Court has entertained the writ petition and granted stay on the impugned notice, without going into the merits of the claim made by the petitioner as well as the respondent, considering the special circumstances of the case that all along the building was assessed to property tax having electricity, water and telephone connection, we permit the petitioner to apply in terms of Section 49 of the Act, as provided for in Section 56(3) of the Act, within a period four weeks from today. If any such application is made, it is for the respondent to consider and pass orders one way or other in accordance with law within a period of six weeks thereafter. It is made clear that we have not expressed anything with regard to eligibility or entitlement or merits of the claim made by the petitioner. It is for the respondent to take appropriate decision in accordance with law applicable. With the above observation, the writ petition is disposed of. No costs.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

gms

To

The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai - 8.

+1cc to Mr.P.R.Raman, Advocate Sr 54605
+1cc to Mr.J.Ravindran, Advocate Sr 54654

HPR (CO)
km/23.11.

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